4. If you have answered more than one of Interrogatories Nos. 1 and 3 with a "Yes", then answer this Interrogatory: Using 100% to represent the total responsibility for the occurrence and any injuries or damages resulting from it, apportion the responsibility between the parties whom you have found to be responsible.

Dr. Kroft	65%
Dr. D. B. Cheairs' Negligence which is separate from and independent of that of Dr. Kroft	35%
Total	100%

5. State the amount of any damage which you find from a preponderance of the evidence was sustained by Wilbur H. Cox as a result of the occurrence, which was proximately caused by negligence of one or more of the defendants. Answer: $37,000.00.

After the said verdicts had been returned by the jury and before judgment was entered thereon, Dr. D. B. Cheairs moved the Court for judgment notwithstanding the verdict, and the plaintiff responded to the said motion and opposed it.

The Court finds that there is no substantial evidence to sustain a verdict against Dr. D. B. Cheairs on the basis of negligence on his part that was separate from and independent of the actions of Dr. Kroft, and the verdicts numbered 3 and 4 ought to be set aside and judg-

ment ought to be entered in favor of Dr. Cheairs, to which action of the Court the objection of the plaintiff is noted .

WHEREFORE, it is by the Court considered, ordered and adjudged that Wilbur H. Cox have and recover of and from V. Kroft and The Argonaut Southwest Insurance Company the sum of Thirty Seven Thousand Dollars ($37,000.00), together with all of his costs herein expended; that Wilbur H. Cox have and recover nothing from D. B. Cheairs and that the complaint of the plaintiff against D. B. Cheairs be dismissed with prejudice; that in the event of the payment by The Argonaut Southwest Insurance Company of all or any portion of the judgment entered herein the said Argonaut Southwest Insurance Company have judgment over against V. Kroft to recover the amount so paid; that Royal-Globe Insurance Company have a lien on the said judgment in favor of Wilbur Cox to the extent of Four Thousand Six Hundred Dollars ($4,600.00) and that the said Royal-Globe Insurance Company be entitled to payment in that amount out of the proceeds of the judgment; and that the said judgment bear interest according to law.

ENTERED this 23rd day of April, 1970

/s/ Tom F. Digby

CIRCUIT JUDGE

APPROVED AS TO FORM:

/s/ Don Ryan

Attorney for Plaintiff

/s/ Alston Jennings

Attorney for D. B. Cheairs

/s/ Steele Hays

Attorney for V. Kroft

/s/ Wm. Eldredge, Jr.

Attorney for Argonaut Southwest
Insurance Company

APPENDIX
C

IN THE SUPREME COURT OF ARKANSAS

V. KROFT and THE ARGONAUT SOUTHWEST INSURANCE COMPANY, APPELLANTS,

VS. Series 5 — No. 5418

WILBUR H. COX, APPELLEE.

MOTION TO DISMISS

Comes now the appellee, by his attorneys, and for his Motion states:

I

That the judgment rendered herein and appealed from has been satisfied in full and the issues involved herein have become moot.

II

That the appeal of V. Kroft and The Argonaut Southwest Insurance Company and the Cross Appeal of Wilbur H. Cox should both be dismissed.

/s/ Donald S. Ryan

Donald S. Ryan
Martin, Dodds, Kidd, Hendrix, & Ryan
Attorney for Wilbur H. Cox, Appellee

CERTIFICATE OF SERVICE

I, Donald S. Ryan, attorney for Appellee, do hereby certify that a copy of the foregoing Motion To Dismiss has been mailed to Spitzberg, Mitchell & Hays, Pyramid Life Building, Smith, Williams, Friday & Bowen, Boyle Building, and Wright, Lindsey and Jennings, Worthen Bank Building, this 18 day of October, 1970.

/s/ Donald S. Ryan

Donald S. Ryan

Filed Oct. 21, 1970
Jimmy H. Hawkins, Clerk

APPENDIX
D

STATE OF ARKANSAS,)
In the Supreme Court) SCT.

BE IT REMEMBERED, That at a term of the Supreme Court of the State of Arkansas, begun and held at the Court Room in the City of Little Rock, on the 5th

day, beginning the first Monday of October, A. D. 1970, amongst others were the following proceedings, to-wit: On the 9th day of November, A. D. 1970, a day of said term

V. KROFT, ET AL APPELLANT

No. 5418 vs.

WILBER H. COX APPELLEE

Appeal from Pulaski 3rd Div.

Motion of appellee to dismiss appeal is granted.

IN TESTIMONY, That the above is a true copy of the order of said Supreme Court, rendered in the case therein stated, I, JIMMY H. HAWKINS, Clerk of said Supreme Court, hereunto set my hand and affix the Seal of said Supreme Court, at my office in the city of Little Rock, this 3rd day of November, A. D. 1971.

Jimmy H. Hawkins
Clerk

By /s/ Carl H. Baker
D. C.

APPENDIX
E

STATE OF ARKANSAS,)
In the Supreme Court) SCT.

BE IT REMEMBERED, That at a term of the Supreme Court of the State of Arkansas, begun and held at the Court Room in the City of Little Rock, on the 5th

day, beginning the first Monday of October, A. D. 1970, amongst others were the following proceedings, to-wit:

On the 24th day of May, A. D. 1971, a day of said term

VADEE KROFT, ET AL Petitioner
No. 5660 vs.
WILBUR H. COX Respondent

Petition for Writ of Certiorari

Petition for Writ of Certiorari is presented and denied.

IN TESTIMONY, That the above is a true copy of the order of said Supreme Court, rendered in the case therein stated, I, JIMMY H. HAWKINS, Clerk of said Supreme Court, hereunto set my hand and affix the Seal of said Supreme Court, at my office in the city of Little Rock, this 3rd day of November, A. D. 1971.

Jimmy H. Hawkins
Clerk

By /s/ Carl H. Baker
D. C.

APPENDIX
F

STATE OF ARKANSAS,)
In the Supreme Court) SCT.

BE IT REMEMBERED, That at a term of the Supreme Court of the State of Arkansas, begun and held at the Court Room in the City of Little Rock, on the 5th

day, beginning the first Monday of October, A. D. 1970, amongst others were the following proceedings, to-wit: On the 28th day of June, A. D. 1971, a day of said term

VADEE KROFT, ET AL Petitioner
No. 5660 vs.
WILBUR H. COX Respondent

Petition for Writ of Certiorari

Petition for rehearing denied.

IN TESTIMONY, That the above is a true copy of the order of said Supreme Court, rendered in the case therein stated, I, JIMMY H. HAWKINS, Clerk of said Supreme Court, hereunto set my hand and affix the Seal of said Supreme Court, at my office in the city of Little Rock, this 3rd day of November, A. D. 1971.

Jimmy H. Hawkins
Clerk

By /s/ Carl H. Baker
D. C.

APPENDIX
G

STATE OF ARKANSAS,)
In the Supreme Court) SCT.

BE IT REMEMBERED, That at a term of the Supreme Court of the State of Arkansas, begun and held at the Court Room in the City of Little Rock, on the 5th day, beginning the first Monday of October, A. D. 1970, amongst others were the following proceedings, to-wit:

On the 20th day of September, A. D. 1971, a day of said term

VADEE KROFT, ET AL Petitioner
No. 5660 vs.
WILBUR H. COX Respondent

Petition for Writ of Certiorari

Petition of appellant to reconsider and re-open case is denied.

IN TESTIMONY, That the above is a true copy of the order of said Supreme Court, rendered in the case therein stated, I, JIMMY H. HAWKINS, Clerk of said Supreme Court, hereunto set my hand and affix the Seal of said Supreme Court, at my office in the city of Little Rock, this 3rd day of November, A. D. 1971.

Jimmy H. Hawkins
Clerk

By /s/ Carl H. Baker
D. C.